



State Water Resources Control Board



Division of Water Rights

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Linda S. Adams

Secretary for

Environmental Protection

Arnold Schwarzenegger

Governor

NOTICE OF PETITION FOR TEMPORARY CHANGE INVOLVING THE TRANSFER OF UP TO 125,000 ACRE-FEET OF WATER FROM THE YUBA COUNTY WATER AGENCY TO THE DEPARTMENT OF WATER RESOURCES UNDER PERMIT 15026 (APPLICATION 5632)

Notice is hereby given that on August 23, 2006

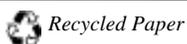
Yuba County Water Agency
c/o Curt Aikens
1402 D Street
Marysville, CA 95901

filed with the State Water Resources Control Board (State Water Board), a Petition for Temporary Change under Water Code section 1725, et seq. Yuba County Water Agency's (YCWA) petition requests a temporary change to facilitate the transfer of up to 125,000 acre-feet (af) of water under Permit 15026 (Application 5632) to the Department of Water Resources (DWR) for use by the Environmental Water Account (EWA) and possible use for DWR's 2007 Dry-Year Water Purchase Program. Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year. The YCWA petition states that the period of the proposed transfer is from April 1, 2007 through December 31, 2007.

DESCRIPTION OF THE TRANSFER

YCWA proposes to transfer up to 125,000 af of water under Permit 15026 (Application 5632) to DWR. To facilitate the transfer, YCWA proposes to release up to 125,000 af of water currently stored in the New Bullards Bar Reservoir between April 1, 2007 through December 31, 2007. Water would be released from New Bullards Bar Reservoir into Englebright Reservoir (via the Colgate Power House) to the Yuba River (through Daguerre Point Dam) thence the Feather River thence the Sacramento River to the Delta. Water reaching the Delta would be available for use by DWR to provide salinity and water quality controls within the Delta or to export from the Delta at either the Clifton Court Forebay or the Tracy Pumping Plant for use within the State Water Project (SWP) or Central Valley Project (CVP) service areas. The maximum release rate from Englebright Reservoir for this transfer under most hydrologic conditions is approximately 750 cubic feet per second (cfs), however during dry years the maximum additional release rate may increase to approximately 1,000 cfs.

California Environmental Protection Agency



PETITIONER'S WATER RIGHTS

Permit 15026 authorizes the storage of 490,000 af of water per year from the North Yuba River between October 1 and June 30. Permit 15026 also authorizes the direct diversion of up to 1593 cfs from the North Yuba and Yuba Rivers between April 1 and July 1. The authorized points of diversion/rediversion under Permit 15026 are located at New Bullards Bar Dam and Daguerre Dam. The authorized purposes of use under Permit 15026 are irrigation, industrial, recreation, fish mitigation and enhancement, and domestic purposes within the place of use shown on map EJ-05-08-R3 (on file with the State Water Board under Application 5632). Permit 15026 was amended by State Water Board Revised Decision 1644 (RD-1644). RD-1644 contains a set of interim flow requirements (measured at the USGS Marysville Gage and Smartville Gage) that were initially in effect through April 20, 2006, and a set of long-term requirements which were scheduled to go into effect after April 21, 2006. The instream flow requirements contained in RD-1644 were further amended by the State Water Board in Order WR 2006-0009, as described in the section below titled "Yuba Accord and 2006 Pilot Program". A copy of RD-1644 is available for viewing on the Division of Water Rights' (Division) website at www.waterrights.ca.gov/hearings/decisions/RevisedWRD1644.pdf.

YUBA ACCORD AND 2006 PILOT PROGRAM

On April 21, 2005, YCWA, in cooperation with 16 other local, State, federal and environmental organizations, approved agreements for a proposed settlement of instream flow requirements on the Lower Yuba River. The proposed Lower Yuba River Accord (Yuba Accord) includes three separate but related proposed agreements: (1) a Fisheries Agreement, (2) a Water Purchase Agreement, and (3) a Conjunctive Use Agreement. Together, the three agreements form a framework that is intended to resolve conflicts over instream flow requirements for the lower Yuba River. The Yuba Accord was initially intended to cover the years from 2006 through 2016. The Yuba Accord proposes to provide modified instream flows for fish, a portion of which would be transferred to DWR and the U.S. Bureau of Reclamation. Additional information regarding the Yuba Accord is available on YCWA's website at www.ycwa.com/Accord%201.html.

Prior to the 2006 water year, YCWA indicated that the environmental documentation required for the Yuba Accord was not complete. YCWA proposed to implement a Pilot Transfer Program during the 2006 water year based on the instream flow requirements in the Fisheries Agreement and the transfer accounting rules in the Water Purchase Agreement. As part of the 2006 Pilot Transfer Program, YCWA submitted a petition to change the effective date of the long-term flow requirements to March 1, 2007. After public notice and a hearing, the State Water Board adopted Order WR 2006-0009, which changed the effective date of the long-term flow requirements to March 1, 2007. Additionally, the Chief of the Division of Water Rights approved Order WR 2006-0010, authorizing the temporary change necessary to transfer water pursuant to the 2006

Pilot Program. These orders are available for viewing on the Division's website at www.waterrights.ca.gov, Water Right Orders, 2006 Orders.

2007 PILOT PROGRAM AND CONCURRENT PETITION FOR CHANGE

YCWA has stated that the environmental documentation that is being prepared for the Yuba Accord will not be completed prior to the 2007 water year. Accordingly, YCWA has proposed to implement a 2007 Pilot Program that would provide for instream flows and water transfers similar to what is proposed in the Yuba River Accord. In addition to the subject petition for temporary change, YCWA filed a separate petition under Water Code section 1700, et seq., to change the effective date of the long-term flow requirements to April 1, 2008. That petition is being separately noticed. Additionally, due to time constraints, the State Water Board has scheduled an evidentiary hearing to review the proposed change in the instream flow requirements contained in RD-1644. The combined public notice for that petition and hearing proceeding is available for viewing on the Division's website at www.waterrights.ca.gov/Hearings/CurrentProjects.htm.

AVAILABILITY OF WATER FOR TRANSFER

YCWA's petition indicates that the water proposed to be transferred consists of water previously stored in New Bullards Bar Reservoir. YCWA's petition includes an agreement with DWR that is intended to ensure that future refill of water transferred from storage (i.e., the transfer total minus the total excess groundwater pumped) in New Bullards Bar Reservoir does not adversely impact the SWP or CVP. The agreement establishes a method of accounting for refill of New Bullards Bar Reservoir due to the proposed transfer. Under the accounting procedures in the agreement, any refill of New Bullards Bar Reservoir that occurs during balanced conditions in the Sacramento-San Joaquin Delta would be subject to repayment to the CVP and SWP during a subsequent period of balanced conditions.¹

PROPOSED TEMPORARY CHANGE

The proposed temporary change would temporarily add the Clifton Court Forebay and Tracy Pumping Plant as points of rediversion under Permit 15026. The service areas of the SWP (as shown on maps 1878-1, 2, 3 & 4 on file with Application 5629) and CVP (as shown on map 214-208-12581 on file with Application 5626) would be temporarily added to the place of use of Permit 15026. Municipal use, salinity control and water quality control would be temporarily added as additional purposes of use under Permit 15026.

¹ "Balanced conditions" in Sacramento-San Joaquin Delta refers to periods of time when water is being released from storage at SWP or CVP reservoirs in order to comply with Delta water quality standards.

ENVIRONMENTAL CONSIDERATIONS

Temporary changes in water right permits and licenses to enable a temporary transfer of water pursuant to Water Code section 1725 et seq. are exempt from the requirements of the California Environmental Quality Act (CEQA). However, in acting upon petitions for temporary changes involving a temporary transfer of water, the State Water Board must consider potential impacts to other legal users of the water and to fish, wildlife, or other instream beneficial uses. YCWA has indicated that it will submit to the Division an environmental assessment that discusses whether the proposed temporary change would cause unreasonable impacts to fish, wildlife, and other instream beneficial uses. Upon its receipt, this document will be posted with this notice on the Division of Water Rights' website at www.waterrights.ca.gov, Water Transfer Program, Notices of Transfers and Temporary Urgency Actions.

APPLICABLE STATUTORY PROVISIONS

Pursuant to Water Code sections 1725, et seq., the State Water Board is authorized to issue temporary change orders, allowing the transfer or exchange of water or water rights after completing an evaluation and finding that the proposed temporary change:

1. Involves only water that would otherwise have been either consumptively used or stored by permittee or licensee or was conserved pursuant to Water Code section 1011;
2. Would not injure any legal user of the water;
3. Would not unreasonably affect fish, wildlife, or other instream beneficial uses;
and

If the State Water Board cannot satisfy, in a timely manner, the provisions of Water Code section 1725, et. seq., then the State Water Board may deny the petition or schedule and notice a hearing regarding the proposed temporary change.

OPPORTUNITY FOR COMMENTS

Pursuant to the requirements outlined above, the State Water Board is seeking information to assist in the evaluation of the proposed temporary change of water rights. Any person may file comments concerning the petition for temporary change. The comments must address the required findings set forth above. The petitioner has the burden of establishing that the proposed temporary change will not injure any legal user of water, or unreasonably affect fish, wildlife, or instream beneficial uses. If the State Water Board determines that the petitioner has established a prima facie case, the burden of proof then shifts to the party that has filed comments (Water Code

section 1727). While such a determination has not been made in this case, commentors should provide sufficient information to support claims of injury or effects on fish, wildlife, or other instream uses.

Due to the relative brevity of the temporary transfer process, the Division (if necessary) may request that the petitioner submit additional information during the comment period. Any such requests and any additional information submitted by the petitioner regarding this proposed temporary change **during the comment period** will be posted with this notice on the Division of Water Rights' website at www.waterrights.ca.gov, Water Transfer Program, Notices of Transfers and Temporary Urgency Actions. Potential commentors are strongly urged to check the website for such information prior to filing a comment.

Comments filed in response to this notice must be received in the office of the State Water Board's Division of Water Rights, by **3:00 p.m. on October 23, 2006**. Additionally, **the response must be accompanied by proof of service of a separate copy of the materials on the petitioner**. The petitioner's and the Division's street and mailing addresses are listed below. Interested parties are encouraged to file comments by FAX and to notify the following contact persons by telephone of any materials that will be submitted. However, an original copy of all materials must be received for the State Water Board to consider your concerns.

Mailing Address

Division of Water Rights
c/o Greg Wilson
P.O. Box 2000
Sacramento, CA 95812-2000
FAX: (916) 341-5400

Yuba County Water Agency
c/o Paul Bartkiewicz
1011 22nd Street
Sacramento, CA 95816-4907
FAX: (916) 446-4018

Street Address

1001 I Street, 14th Floor
Sacramento, CA 95814

Please direct questions about this notice to Greg Wilson at (916) 341-5427. Questions regarding the petitioner or transferee should be addressed to Paul Bartkiewicz at (916) 446-4254.

Original signed by

Leslie F. Grober, Chief
Hearings and Special Projects Section

Dated: September 22, 2006